

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

Griffin Benjamin Bailey, P.A.

**Physician Assistant
License No. PA 21688**

Respondent

Case No. 950-2018-002109

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on December 9, 2021.

IT IS SO ORDERED November 9, 2021

PHYSICIAN ASSISTANT BOARD

By: _____


Juan Armenta, President

1 ROB BONTA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
Deputy Attorney General
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8
9 **BEFORE THE**
PHYSICIAN ASSISTANT BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **GRIFFIN BENJAMIN BAILEY, P.A.**
14 **3651 N. McArthur Avenue**
15 **Fresno , CA 93727-7978**

16 **Physician Assistant License No. PA 21688**

17 **Respondent.**

Case No. 950-2018-002109

OAH No. 2021030112

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Physician Assistant Board of the Department of Consumer
21 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
22 which will be submitted to the Board for approval and adoption as the final disposition of the
23 Accusation.

24 **PARTIES**

25 1. Rozana Khan (Complainant) is the Executive Officer of the Physician Assistant
26 Board (Board). She brought this action solely in her official capacity and is represented in this
27 matter by Rob Bonta, Attorney General of the State of California, by Lynette D. Hecker, Deputy
28 Attorney General.

2. Respondent Griffin Benjamin Bailey, P.A. (Respondent) is represented in this proceeding by attorney Marlo Cordero, whose address is: 23152 Verdugo Drive, Suite 201 Laguna Hills, CA 92653.

3. On or about July 8, 2011, the Board issued Physician Assistant License No. PA 21688 to Griffin Benjamin Bailey, P.A. (Respondent). The Physician Assistant License was in full force and effect at all times relevant to the charges brought in Accusation No. 950-2018-002109, and will expire on February 28, 2023, unless renewed.

JURISDICTION

4. Accusation No. 950-2018-002109 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 25, 2021. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 950-2018-002109 is attached as "Exhibit A" and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 950-2018-002109. Respondent has also carefully read, fully discussed with his counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 950-2018-002109, if proven at a hearing, constitute cause for imposing discipline upon his
4 Physician Assistant License.

5 10. Respondent does not contest that, at an administrative hearing, Complainant could
6 establish a *prima facie* case or factual basis with respect to the charges and allegations in
7 Accusation No. 950-2018-002109, a true and correct copy of which is attached hereto as "Exhibit
8 A," and Respondent hereby gives up his right to contest those charges. Respondent agrees that
9 he has thereby subjected his Physician Assistant License, No. PA 21688 to disciplinary action.

10 11. Respondent agrees that his Physician Assistant License is subject to discipline and he
11 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
12 below.

13 **CONTINGENCY**

14 12. This stipulation shall be subject to approval by the Physician Assistant Board.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Physician
16 Assistant Board may communicate directly with the Board regarding this stipulation and
17 settlement, without notice to or participation by Respondent or his counsel. By signing the
18 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 13. Respondent agrees that if he ever petitions for early termination or modification of
25 probation, or if an accusation and/or petition to revoke probation is filed against him before the
26 Board, all of the charges and allegations contained in Accusation No. 950-2018-002109 shall be
27 deemed true, correct and fully admitted by respondent for purposes of any such proceeding or any
28 other licensing proceeding involving Respondent in the State of California.

1 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
3 signatures thereto, shall have the same force and effect as the originals.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or opportunity to be heard by the Respondent, issue and
6 enter the following Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Physician Assistant License No. PA 21688 issued to
9 Respondent Griffin Benjamin Bailey, P.A. is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions:

11 1. MEDICAL RECORD KEEPING COURSE Within 60 calendar days of the effective
12 date of this decision, respondent shall enroll in a course in medical record keeping approved in
13 advance by the Board or its designee. The course shall be Category I certified, limited to
14 classroom, conference, or seminar settings. Respondent shall successfully complete the course
15 within the first 6 months of probation.

16 Respondent shall pay the cost of the course.

17 Respondent shall submit a certification of successful completion to the Board or its
18 designee within 15 days after completing the course.

19 2. ETHICS COURSE Within 60 days of the effective date of this decision, respondent
20 shall submit to the Board or its designee for its prior approval a course in ethics. The course shall
21 be limited to classroom, conference, or seminar settings. Respondent shall successfully complete
22 the course within the first year of probation.

23 Respondent shall pay the cost of the course.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee within 15 days after completing the course.

26 3. MAINTENANCE OF PATIENT MEDICAL RECORDS Respondent shall keep
27 written medical records for each patient contact (including all visits and phone calls) at the
28 worksite and shall make them available for immediate inspection by the Board or its designee on

1 the premises at all times during business hours.

2 4. ON-SITE SUPERVISION The supervising physician shall be on site at all times
3 Respondent is practicing.

4 5. APPROVAL OF SUPERVISING PHYSICIAN Within 30 days of the effective date
5 of this decision, Respondent shall submit to the Board or its designee for its prior approval the
6 name and license number of the supervising physician and a practice plan detailing the nature and
7 frequency of supervision to be provided. Respondent shall not practice until the supervising
8 physician and practice plan are approved by the Board or its designee.

9 Respondent shall have the supervising physician submit quarterly reports to the Board or its
10 designee.

11 If the supervising physician resigns or is no longer available, Respondent shall, within 15
12 days, submit the name and license number of a new supervising physician for approval.
13 Respondent shall not practice until a new supervising physician has been approved by the Board
14 or its designee.

15 6. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN Respondent
16 shall notify his/her current and any subsequent employer and supervising physician(s) of the
17 discipline and provide a copy of the Accusation, Decision, and Order to each employer and
18 supervising physician(s) during his/her period of probation, before accepting or continuing
19 employment. Respondent shall ensure that each employer informs the Board or its designee, in
20 writing within 30 days, verifying that the employer and supervising physician(s) have received a
21 copy of the Accusation, Decision, and Order.

22 This condition shall apply to any change(s) in place of employment.

23 The Respondent shall provide to the Board or its designee the names, physical addresses,
24 mailing addresses, and telephone numbers of all employers, supervising physicians, and work site
25 monitor, and shall inform the Board or its designee in writing of the facility or facilities at which
26 the person practices as a physician assistant.

27 Respondent shall give specific, written consent to the Board or its designee to allow the
28 Board or its designee to communicate with the employer, supervising physician, or work site

1 monitor regarding the licensee's work status, performance, and monitoring.

2 7. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws, and all
3 rules governing the practice of medicine as a physician assistant in California, and remain in full
4 compliance with any court ordered criminal probation, payments, and other orders.

5 8. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
6 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
7 compliance with all the conditions of probation.

8 9. OTHER PROBATION REQUIREMENTS Respondent shall comply with the
9 Board's probation unit. Respondent shall, at all times, keep the Board and probation unit
10 informed of respondent's business and residence addresses. Changes of such addresses shall be
11 immediately communicated in writing to the Board and probation unit. Under no circumstances
12 shall a post office box serve as an address of record, except as allowed by California Code of
13 Regulations, title 16, section 1399.511.

14 Respondent shall appear in person for an initial probation interview with Board or its
15 designee within 90 days of the decision. Respondent shall attend the initial interview at a time
16 and place determined by the Board or its designee.

17 Respondent shall, at all times, maintain a current and renewed physician assistant license.

18 Respondent shall also immediately inform the probation unit, in writing, of any travel to
19 any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than
20 thirty (30) days.

21 10. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear in
22 person for interviews with the Board's medical or expert physician assistant consultant upon
23 request at various intervals and with reasonable notice.

24 11. NON-PRACTICE WHILE ON PROBATION Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in
27 which respondent is not practicing as a physician assistant. Respondent shall not return to
28 practice until the supervising physician is approved by the Board or its designee.

1 If, during probation, respondent moves out of the jurisdiction of California to reside or
2 practice elsewhere, including federal facilities, respondent is required to immediately notify the
3 Board in writing of the date of departure and the date of return, if any.

4 Practicing as a physician assistant in another state of the United States or federal
5 jurisdiction while on active probation with the physician assistant licensing authority of that state
6 or jurisdiction shall not be considered non-practice.

7 All time spent in a clinical training program that has been approved by the Board or its
8 designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension
9 or in compliance with any other condition or probation, shall not be considered a period of non-
10 practice.

11 Any period of non-practice, as defined in this condition, will not apply to the reduction of
12 the probationary term.

13 Periods of non-practice do not relieve Respondent of the responsibility to comply with the
14 terms and conditions of probation.

15 It shall be considered a violation of probation if for a total of two years, Respondent fails to
16 practice as a physician assistant. Respondent shall not be considered in violation for non-practice
17 as long as Respondent is residing and practicing as a physician assistant in another state of the
18 United States and is on active probation with the physician assistant licensing authority of that
19 state, in which case the two year period shall begin on the date probation is completed or
20 terminated in that state.

21 12. UNANNOUNCED CLINICAL SITE VISIT The Board or its designee may make
22 unannounced clinical site visits at any time to ensure that Respondent is complying with all terms
23 and conditions of probation.

24 13. CONDITION FULFILLMENT A course, evaluation, or treatment completed after
25 the acts that gave rise to the charges in the Accusation, but prior to the effective date of the
26 Decision may, in the sole discretion of the Board or its designee, be accepted towards the
27 fulfillment of the condition.

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1 14. COMPLETION OF PROBATION Respondent shall comply with all financial
2 obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the
3 completion of probation. Upon successful completion of probation, Respondent's license will be
4 fully restored.

5 15. VIOLATION OF PROBATION If Respondent violates probation in any respect, the
6 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
7 carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is
8 filed against Respondent during probation, the Board shall have continuing jurisdiction until the
9 matter is final, and the period of probation shall be extended until the matter is final.

10 16. COST RECOVERY Respondent is hereby ordered to reimburse the Physician
11 Assistant Board the amount of \$13,500 within 90 days from the effective date of this decision for
12 its investigative costs. Failure to reimburse the Board's costs for its investigation shall constitute
13 a violation of the probation order, unless the Board agrees in writing to payment by an installment
14 plan because of financial hardship. The filing of bankruptcy by the Respondent shall not relieve
15 the Respondent of his/her responsibility to reimburse the Board for its investigative costs.

16 17. PROBATION MONITORING COSTS Respondent shall pay the costs associated
17 with probation monitoring each and every year of probation, as designated by the Board, which
18 may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant
19 Board and delivered to the Board no later than January 31 of each calendar year.

20 18. VOLUNTARY LICENSE SURRENDER Following the effective date of this
21 probation, if Respondent ceases practicing due to retirement, health reasons, or is otherwise
22 unable to satisfy the terms and conditions of probation, Respondent may request, in writing, the
23 voluntarily surrender of Respondent's license to the Board. Respondent's written request to
24 surrender his or her license shall include the following: his or her name, license number, case
25 number, address of record, and an explanation of the reason(s) why respondent seeks to surrender
26 his or her license. The Board reserves the right to evaluate Respondent's request and to exercise
27 its discretion whether to grant the request, or to take any other action deemed appropriate and
28 reasonable under the circumstances. Respondent shall not be relieved of the requirements of his

or her probation unless the Board or its designee notifies Respondent in writing that Respondent's request to surrender his or her license has been accepted. Upon formal acceptance of the surrender, Respondent shall, within 15 days, deliver Respondent's wallet and wall certificate to the Board or its designee and shall no longer practice as a physician assistant. Respondent will no longer be subject to the terms and conditions of probation and the surrender of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Marlo Cordero. I understand the stipulation and the effect it will have on my Physician Assistant License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Physician Assistant Board.

DATED:

GRIFFIN BENJAMIN BAILEY, P.A.
Respondent

I have read and fully discussed with Respondent Griffin Benjamin Bailey, P.A. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED:

MARLO CORDERO
Attorney for Respondent

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1 or her probation unless the Board or its designee notifies Respondent in writing that Respondent's
2 request to surrender his or her license has been accepted. Upon formal acceptance of the
3 surrender, Respondent shall, within 15 days, deliver Respondent's wallet and wall certificate to
4 the Board or its designee and shall no longer practice as a physician assistant. Respondent will no
5 longer be subject to the terms and conditions of probation and the surrender of Respondent's
6 license shall be deemed disciplinary action. If Respondent re-applies for a physician assistant
7 license, the application shall be treated as a petition for reinstatement of a revoked license.

8 ACCEPTANCE

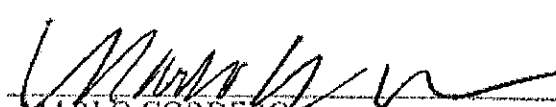
9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Marlo Cordero. I understand the stipulation and the effect it will
11 have on my Physician Assistant License. I enter into this Stipulated Settlement and Disciplinary
12 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
13 of the Physician Assistant Board.

14
15 DATED: 7/08/2021


16 GRIFFIN BENJAMIN BAILEY, P.A.
Respondent

17 I have read and fully discussed with Respondent Griffin Benjamin Bailey, P.A. the terms
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
19 Order. I approve its form and content.

20 DATED: 7/8/21


21 MARLO CORDERO
Attorney for Respondent

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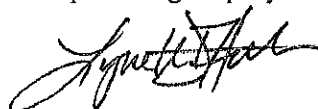
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physician Assistant Board.

DATED: 7/9/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
STEVE DIEHL
Supervising Deputy Attorney General



LYNETTE D. HECKER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 950-2018-002109

1 XAVIER BECERRA
Attorney General of California
2 STEVE DIEHL
Supervising Deputy Attorney General
3 LYNETTE D. HECKER
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9 **BEFORE THE**
PHYSICIAN ASSISTANT BOARD
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 950-2018-002109

13 **GRIFFIN BENJAMIN BAILEY, P.A.**
14 **5150 N. 6th Street, Suite 100**
Fresno, CA 93710-7505

ACCUSATION

15 **Physician Assistant License No. PA 21688**

16 Respondent.
17

18
19 **PARTIES**

20 1. Rozana Khan (Complainant) brings this Accusation solely in her official capacity as
21 the Executive Officer of the Physician Assistant Board, Department of Consumer Affairs.

22 2. On or about July 8, 2011, the Physician Assistant Board issued Physician Assistant
23 License Number PA 21688 to Griffin Benjamin Bailey, P.A. (Respondent). The Physician
24 Assistant License was in full force and effect at all times relevant to the charges brought herein
25 and will expire on February 28, 2021, unless renewed.

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1 JURISDICTION

2 3. This Accusation is brought before the Physician Assistant Board (Board), Department
3 of Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

5 4. Section 3504.1 of the Code states:

6 Protection of the public shall be the highest priority for the Physician Assistant
7 Board in exercising its licensing, regulatory, and disciplinary functions. Whenever the
8 protection of the public is inconsistent with other interests sought to be promoted, the
9 protection of the public shall be paramount.

9 5. Section 3527 of the Code states:

10 (a) The board may order the denial of an application for, or the issuance subject
11 to terms and conditions of, or the suspension or revocation of, or the imposition of
12 probationary conditions upon a PA license after a hearing as required in Section 3528
13 for unprofessional conduct that includes, but is not limited to, a violation of this chapter,
14 a violation of the Medical Practice Act, or a violation of the regulations adopted by the
15 board or the Medical Board of California.

16 (b) The board may order the denial of an application for, or the suspension or
17 revocation of, or the imposition of probationary conditions upon, an approved program
18 after a hearing as required in Section 3528 for a violation of this chapter or the
19 regulations adopted pursuant thereto.

20 (c) The Medical Board of California may order the imposition of probationary
21 conditions upon a physician and surgeon's authority to supervise a PA, after a hearing
22 as required in Section 3528, for unprofessional conduct, which includes, but is not
23 limited to, a violation of this chapter, a violation of the Medical Practice Act, or a
24 violation of the regulations adopted by the board or the Medical Board of California.

25 (d) The board may order the denial of an application for, or the suspension or
26 revocation of, or the imposition of probationary conditions upon, a PA license, after a
27 hearing as required in Section 3528 for unprofessional conduct that includes, except
28 for good cause, the knowing failure of a licensee to protect patients by failing to follow
infection control guidelines of the board, thereby risking transmission of bloodborne
infectious diseases from licensee to patient, from patient to patient, and from patient to
licensee. In administering this subdivision, the board shall consider referencing the
standards, regulations, and guidelines of the State Department of Health developed
pursuant to Section 1250.11 of the Health and Safety Code and the standards,
regulations, and guidelines pursuant to the California Occupational Safety and Health
Act of 1973 (Part 1 (commencing with Section 6300) of Division 5 of the Labor Code)
for preventing the transmission of HIV, hepatitis B, and other bloodborne pathogens in
health care settings. As necessary, the board shall consult with the Medical Board of
California, the Osteopathic Medical Board of California, the Podiatric Medical Board
of California, the Dental Board of California, the Board of Registered Nursing, and the
Board of Vocational Nursing and Psychiatric Technicians of the State of California to
encourage appropriate consistency in the implementation of this subdivision.

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1 The board shall seek to ensure that licensees are informed of the responsibility of
2 licensees and others to follow infection control guidelines, and of the most recent
scientifically recognized safeguards for minimizing the risk of transmission of
bloodborne infectious diseases.

3 (e) The board may order the licensee to pay the costs of monitoring the
4 probationary conditions imposed on the license.

5 (f) The expiration, cancellation, forfeiture, or suspension of a PA license by
operation of law or by order or decision of the board or a court of law, the placement
6 of a license on a retired status, or the voluntary surrender of a license by a licensee shall
not deprive the board of jurisdiction to commence or proceed with any investigation
7 of, or action or disciplinary proceeding against, the licensee or to render a decision
suspending or revoking the license.

8 STATUTORY PROVISIONS

9 6. Section 2234 of the Code states:

10 The board shall take action against any licensee who is charged with
unprofessional conduct. In addition to other provisions of this article, unprofessional
11 conduct includes, but is not limited to, the following:

12 (a) Violating or attempting to violate, directly or indirectly, assisting in or
13 abetting the violation of, or conspiring to violate any provision of this chapter.

14 (b) Gross negligence.

15 (c) Repeated negligent acts. To be repeated, there must be two or more negligent
acts or omissions. An initial negligent act or omission followed by a separate and
16 distinct departure from the applicable standard of care shall constitute repeated
negligent acts.

17 (1) An initial negligent diagnosis followed by an act or omission
18 medically appropriate for that negligent diagnosis of the patient shall
constitute a single negligent act.

19 (2) When the standard of care requires a change in the diagnosis, act, or
20 omission that constitutes the negligent act described in paragraph (1),
including, but not limited to, a reevaluation of the diagnosis or a change
21 in treatment, and the licensee's conduct departs from the applicable
standard of care, each departure constitutes a separate and distinct breach
22 of the standard of care.

23 (d) Incompetence.

24 (e) The commission of any act involving dishonesty or corruption that is
substantially related to the qualifications, functions, or duties of a physician and
25 surgeon.

26 (f) Any action or conduct that would have warranted the denial of a certificate.

27 (g) The failure by a certificate holder, in the absence of good cause, to attend and
participate in an interview by the board. This subdivision shall only apply to a
28 certificate holder who is the subject of an investigation by the board.

1 7. Section 2262 of the Code states:

2 Altering or modifying the medical record of any person with fraudulent intent, or
3 creating any false medical record, with fraudulent intent, constitutes unprofessional
4 conduct.

5 In addition to any other disciplinary action, the Division of Medical Quality or
6 the California Board of Podiatric Medicine may impose a civil penalty of five hundred
7 dollars (\$500) for a violation of this section.

8 8. Section 3501 of the Code states in pertinent part:

9 ...

10 (d) "Physician assistant" or "PA" means a person who meets the requirements
11 of this chapter and is licensed by the board.

12 (e) "Supervising physician" or "supervising physician and surgeon" means a
13 physician and surgeon licensed by the Medical Board of California or by the
14 Osteopathic Medical Board of California who supervises one or more physician
15 assistants, who possesses a current valid license to practice medicine, and who is not
16 currently on disciplinary probation prohibiting the employment or supervision of a
17 physician assistant.

18 (f)(1) "Supervision" means that a licensed physician and surgeon oversees the
19 activities of, and accepts responsibility for, the medical services rendered by a
20 physician assistant. Supervision, as defined in this subdivision, shall not be construed
21 to require the physical presence of the physician and surgeon, but does require the
22 following:

23 (A) Adherence to adequate supervision as agreed to in the practice
24 agreement.

25 (B) The physician and surgeon being available by telephone or other
26 electronic communication method at the time the PA examines the patient.

27 ...

28 9. Section 3502 of the Code states in pertinent part:

 (a) Notwithstanding any other law, a PA may perform medical services as
 authorized by this chapter if the following requirements are met:

 (1) The PA renders the services under the supervision of a licensed
 physician and surgeon who is not subject to a disciplinary condition imposed
 by the Medical Board of California or by the Osteopathic Medical Board of
 California prohibiting that supervision or prohibiting the employment of a
 physician assistant.

 (2) The PA renders the services pursuant to a practice agreement that
 meets the requirements of Section 3502.3.

1 (3) The PA is competent to perform the services.

2 (4) The PA's education, training, and experience have prepared the PA
3 to render the services.

4 (b) (1) Notwithstanding any other law, a physician assistant performing medical
5 services under the supervision of a physician and surgeon may assist a doctor of
6 podiatric medicine who is a partner, shareholder, or employee in the same medical
7 group as the supervising physician and surgeon. . . .

8 (2) A supervising physician and surgeon shall be available to the
9 physician assistant for consultation when assistance is rendered pursuant to
10 this subdivision. . . .

11 (c) Nothing in regulations shall require that a physician and surgeon review or
12 countersign a medical record of a patient treated by a physician assistant, unless
13 required by the practice agreement. The board may, as a condition of probation or
14 reinstatement of a licensee, require the review or countersignature of records of patients
15 treated by a physician assistant for a specified duration.

16 . . .

17 10. Section 3502.1 of the Code states:

18 In addition to the medical services authorized in the regulations adopted pursuant
19 to Section 3502, and except as prohibited by Section 3502, a PA may furnish or order
20 a drug or device subject to all of the following:

21 (a) The PA shall furnish or order a drug or device in accordance with the practice
22 agreement and consistent with the PA's educational preparation or for which clinical
23 competency has been established and maintained.

24 (b)(1) A practice agreement authorizing a PA to order or furnish a drug or device
25 shall specify which PA or PA's may furnish or order a drug or device, which drugs or
26 devices may be furnished or ordered, under what circumstances, the extent of physician
27 and surgeon supervision, the method of periodic review of the PA's competence,
28 including peer review, and review of the practice agreement.

(2) In addition to the requirements in paragraph (1), if the practice
agreement authorizes the PA to furnish a Schedule II controlled substance,
the practice agreement shall address the diagnosis of the illness, injury, or
condition for which the PA may furnish the Schedule II controlled substance.

(c) The PA shall furnish or order drugs or devices under physician and surgeon
supervision. This subdivision shall not be construed to require the physical presence of
the physician and surgeon, but does require the following:

(1) Adherence to adequate supervision as agreed to in the practice
agreement.

(2) The physician and surgeon be available by telephone or other
electronic communication method at the time the PA examines the patient.

(d)(1) Except as provided in paragraph (2), the PA may furnish or order only
those Schedule II through Schedule V controlled substances under the California
Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of

1 the Health and Safety Code) that have been agreed upon in the practice agreement.

2 (2) The PA may furnish or order Schedule II or III controlled
3 substances, as defined in Sections 11055 and 11056, respectively, of the
4 Health and Safety Code, in accordance with the practice agreement or a
5 patient-specific order approved by the treating or supervising physician and
6 surgeon.

7 (e)(1) The PA has satisfactorily completed a course in pharmacology covering
8 the drugs or devices to be furnished or ordered under this section or has completed a
9 program for instruction of PAs that meet the requirements of Section 1399.530 of Title
10 16 of the California Code of Regulations, as that provision read on June 7, 2019.

11 (2) A physician and surgeon through a practice agreement may
12 determine the extent of supervision necessary pursuant to this section in the
13 furnishing or ordering of drugs and devices.

14 (3) PAs who hold an active license, who are authorized through a
15 practice agreement to furnish Schedule II controlled substances, and who are
16 registered with the United States Drug Enforcement Administration, and who
17 have not successfully completed a one-time course in compliance with
18 Sections 1399.610 and 1399.612 of Title 16 of the California Code of
19 Regulations, as those provisions read on June 7, 2019, shall complete, as part
20 of their continuing education requirements, a course that covers Schedule II
21 controlled substances, and the risks of addiction associated with their use,
22 based on the standards developed by the board. The board shall establish the
23 requirements for satisfactory completion of this subdivision. Evidence of
24 completion of a course meeting the standards, including pharmacological
25 content, established in Sections 1399.610 and 1399.612 of Title 16 of the
26 California Code of Regulations, as those provisions read on June 7, 2019,
27 shall be deemed to meet the requirements of this section.

28 (f) For purposes of this section:

(1) "Furnishing" or "ordering" shall include the following:

(A) Ordering a drug or device in accordance with the practice agreement.

(B) Transmitting an order of a supervising physician and surgeon.

(C) Dispensing a medication pursuant to Section 4170.

(2) "Drug order" or "order" means an order for medication that is
dispensed to or for an ultimate user, issued by a PA as an individual
practitioner, within the meaning of Section 1306.02 of Title 21 of the Code
of Federal Regulations.

(g) Notwithstanding any other law, (1) a drug order issued pursuant to this section
shall be treated in the same manner as a prescription of a supervising physician; (2) all
references to "prescription" in this code and the Health and Safety Code shall include
drug orders issued by physician assistants; and (3) the signature of a PA on a drug order
issued in accordance with this section shall be deemed to be the signature of a prescriber
for purposes of this code and the Health and Safety Code.

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1 11. Section 3502.3 of the Code states:

2 (a)(1) A practice agreement shall include provisions that address the
3 following:

4 (A) The types of medical services a physician assistant is authorized
5 to perform.

6 (B) Policies and procedures to ensure adequate supervision of the
7 physician assistant, including, but not limited to, appropriate
8 communication, availability, consultations, and referrals between a
9 physician and surgeon and the physician assistant in the provision of
10 medical services.

11 (C) The methods for the continuing evaluation of the competency and
12 qualifications of the physician assistant.

13 (D) The furnishing or ordering of drugs or devices by a physician
14 assistant pursuant to Section 3502.1.

15 (E) Any additional provisions agreed to by the physician assistant
16 and physician and surgeon.

17 (2) A practice agreement shall be signed by both of the following:

18 (A) The physician assistant.

19 (B) One or more physicians and surgeons or a physician and surgeon
20 who is authorized to approve the practice agreement on behalf of the staff
21 of the physicians and surgeons on the staff of an organized health care
22 system.

23 (3) A delegation of services agreement in effect prior to January 1,
24 2020, shall be deemed to meet the requirements of this subdivision.

25 (4) A practice agreement may designate a PA as an agent of a
26 supervising physician and surgeon.

27 (5) Nothing in this section shall be construed to require approval of a
28 practice agreement by the board.

(b) Notwithstanding any other law, in addition to any other practices that meet
the general criteria set forth in this chapter or regulations adopted by the board or the
Medical Board of California, a practice agreement may authorize a PA to do any of the
following:

(1) Order durable medical equipment, subject to any limitations set
forth in Section 3502 or the practice agreement. Notwithstanding that
authority, nothing in this paragraph shall operate to limit the ability of a third-
party payer to require prior approval.

(2) For individuals receiving home health services or personal care
services, after consultation with a supervising physician and surgeon,
approve, sign, modify, or add to a plan of treatment or plan of care.

1 (3) After performance of a physical examination by the PA under the
2 supervision of a physician and surgeon consistent with this chapter, certify
3 disability pursuant to Section 2708 of the Unemployment Insurance Code.
4 The Employment Development Department shall implement this paragraph
5 on or before January 1, 2017.

6 (c) This section shall not be construed to affect the validity of any practice
7 agreement in effect prior to the effective date of this section or those adopted
8 subsequent to the effective date of this section.

9 COST RECOVERY

10 12. Section 125.3 of the Code states that:

11 (a) Except as otherwise provided by law, in any order issued in resolution of a
12 disciplinary proceeding before any board within the department or before the
13 Osteopathic Medical Board upon request of the entity bringing the proceeding, the
14 administrative law judge may direct a licensee found to have committed a violation or
15 violations of the licensing act to pay a sum not to exceed the reasonable costs of the
16 investigation and enforcement of the case.

17 (b) In the case of a disciplined licentiate that is a corporation or a partnership, the
18 order may be made against the licensed corporate entity or licensed partnership.

19 (c) A certified copy of the actual costs, or a good faith estimate of costs where
20 actual costs are not available, signed by the entity bringing the proceeding or its
21 designated representative shall be prima facie evidence of reasonable costs of
22 investigation and prosecution of the case. The costs shall include the amount of
23 investigative and enforcement costs up to the date of the hearing, including, but not
24 limited to, charges imposed by the Attorney General.

25 (d) The administrative law judge shall make a proposed finding of the amount of
26 reasonable costs of investigation and prosecution of the case when requested pursuant
27 to subdivision (a). The finding of the administrative law judge with regard to costs
28 shall not be reviewable by the board to increase the cost award. The board may reduce
or eliminate the cost award, or remand to the administrative law judge if the proposed
decision fails to make a finding on costs requested pursuant to subdivision (a).

(e) If an order for recovery of costs is made and timely payment is not made as
directed in the board's decision, the board may enforce the order for repayment in any
appropriate court. This right of enforcement shall be in addition to any other rights the
board may have as to any licensee to pay costs.

(f) In any action for recovery of costs, proof of the board's decision shall be
conclusive proof of the validity of the order of payment and the terms for payment.

(g)(1) Except as provided in paragraph (2), the board shall not renew or reinstate
the license of any licensee who has failed to pay all of the costs ordered under this
section.

(2) Notwithstanding paragraph (1), the board may, in its discretion,
conditionally renew or reinstate for a maximum of one year the license of any
licensee who demonstrates financial hardship and who enters into a formal
agreement with the board to reimburse the board within that one-year period
for the unpaid costs.

1 (h) All costs recovered under this section shall be considered a reimbursement
2 for costs incurred and shall be deposited in the fund of the board recovering the costs
to be available upon appropriation by the Legislature.

3 (i) Nothing in this section shall preclude a board from including the recovery of
4 the costs of investigation and enforcement of a case in any stipulated settlement.

5 (j) This section does not apply to any board if a specific statutory provision in
6 that board's licensing act provides for recovery of costs in an administrative
disciplinary proceeding.

7 (k) Notwithstanding the provisions of this section, the Medical Board of
8 California shall not request nor obtain from a physician and surgeon, investigation and
9 prosecution costs for a disciplinary proceeding against the licensee. The board shall
10 ensure that this subdivision is revenue neutral with regard to it and that any loss of
revenue or increase in costs resulting from this subdivision is offset by an increase in
11 the amount of the initial license fee and the biennial renewal fee, as provided in
subdivision (e) of Section 2435.

11 FACTUAL ALLEGATIONS

12 13. On or about April 28, 2018, Respondent entered into a contract with California
13 Integrative Healthcare/Valley Natural Health clinics to serve as a chiropractor and physician
14 assistant. Both clinics are located and rendered services to patients within the same office space.
15 Respondent did not have a practice agreement, a Delegation of Services Agreement, or a
16 supervising physician during his time at California Integrative Healthcare/Valley Natural Health
17 regarding his services as a physician assistant. The only individual with a valid physician's and
18 surgeon's license at California Integrative Healthcare/Valley Natural Health had no knowledge of
19 Respondent, or that he was responsible for supervising Respondent.

20 14. On or about July 7, 2018, the patient¹ presented at California Integrative
21 Healthcare/Valley Natural Health clinics for a "New Patient Encounter." Respondent knew the
22 patient as they previously worked in another medical office together. Respondent saw the patient
23 in his capacity as a physician assistant -- not as a chiropractor. Respondent did not identify a
24 current history or chief complaint for the patient. Respondent's entries under Medical History
25 indicates no major illnesses; Surgical History indicates no prior surgeries; and Social History
26 documents that the patient smokes some, drinks alcohol socially, and does not use
27 illicit/recreational drugs. The patient was noted to drink ½ can per day of energy drinks, to

28 ¹ The patient's full name is not used to protect the patient's privacy rights.

1 follow a lactose free diet, and to be allergic to Baclofen. The patient reportedly took Norco 10-
2 325, 1 tablet every 4-6 hours as needed and phentermine 30 mg capsules, ½ every other day.
3 Respondent did not inquire as to why the patient was taking either of these medications. The
4 Review of Systems of the patient is positive for bilateral shoulder pain for 8-9 years, generalized
5 hair loss, and psychiatric system review indicates “mood – see HPI.” Yet there is no History of
6 Present Illness recorded addressing any items, including mood. The patient’s vital signs were
7 recorded and a physical examination indicates she was in no acute distress, and had normal
8 respiratory, cardiovascular, abdominal, musculoskeletal, and psychiatric examination. A urine
9 test was performed that indicated a specific gravity of 1.015, pH 8.5, urobilinogen of 0.2 nml, and
10 everything else was negative. A 13 Panel Drug and EtOH² Screen was performed which was
11 positive for cocaine and marijuana, but was negative for all other substances. A diagnosis of
12 dehydration was made and “Myers IV 250 mL and Glutathione 250 ML infusions” were ordered
13 for the patient, who was to return to the clinic in one month.

14 15. An audit trail of the electronic medical records system indicates changes made in the
15 patient’s chart for the visit on or about July 7, 2018. The patient’s Vital Signs were entered by
16 the medical assistant at or about 1:52 pm. The patient’s Medical History, Family History, Social
17 History, and Review of Systems were entered by the medical assistant at or about 2:00 pm.
18 Physical Examination findings and the Assessment were entered by Respondent at or about 2:05
19 pm. The Disposition was entered by Respondent at or about 2:11 pm. The Plan Note was entered
20 by Respondent at or about 2:15 pm. At or about 2:15 pm, Coding was added by Respondent and
21 the encounter was “finalized” by Respondent. However, a Flow Sheet entry for the patient of
22 “COC³: Positive” was added by the medical assistant at or about 2:01 pm, which Respondent
23 deleted at or about 3:01 pm. Respondent then entered “COC: Negative” at or about 3:03 pm,
24 which he changed back to “COC: Positive” at or about 3:13 pm. Similarly, a Flow Sheet entry of
25 “THC⁴: Positive” was added by the medical assistant at or about 2:01 pm, which Respondent
26 changed to “THC: Negative” at or about 3:02 pm, and then changed back to “THC: Positive” at

27 ² “EtOH” is an abbreviation for an ethanol/alcohol test.

28 ³ “COC” is an abbreviation for cocaine.

⁴ “THC” is an abbreviation for marijuana.

1 or about 3:13 pm. Respondent printed and provided the patient with a copy of the negative test
2 results before she left the clinic.

3 16. Later on or about that same day, California Integrative Healthcare/Valley Natural
4 Health clinics terminated the contract for Respondent's services.

5 17. The standard of care requires that a prescriber document the events of the encounter
6 in the patient's medical record. When a paper record is utilized, a line should be drawn through
7 any erroneous information with the correct information added and initialed. In an electronic
8 medical records system, it is appropriate to correct an erroneous entry by allowing for a time
9 stamped audit trail to document any changes that are made with deleting erroneous information
10 and adding corrected information. However, it is typical that a new entry is made with a notation
11 of why the change occurred. Only factual information shall be recorded in the record and
12 erroneous test results should not be intentionally recorded. Respondent's changing test results
13 related to the patient's positive COC and THC urine screen to negative without entering a
14 notation of the reason for the change and providing a copy of the altered test results to the patient
15 constitutes negligence.

16 18. The standard of care also requires that a physician assistant provide care related to his
17 or her skill and training and only provide those services that are delegated to him or her by the
18 supervising physician under the terms of the Delegation of Services Agreement, or practice
19 agreement. Respondent had neither a Delegation of Services Agreement, nor a practice
20 agreement in place while he was under contract with California Integrative Healthcare/Valley
21 Natural Health clinics to work as a physician assistant. The only individual with a valid
22 physician's and surgeon's license at California Integrative Healthcare/Valley Natural Health had
23 no knowledge of Respondent, or that he was responsible for supervising Respondent.
24 Respondent's failure to ensure that he had a supervising physician and a Delegation of Services
25 Agreement, or practice agreement constitutes negligence.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Repeated Acts of Negligence)**

3 19. Respondent's license is subject to disciplinary action under Code section 2234,
4 subdivision (c), in that he committed repeated acts of negligence by: (1) failing to have a
5 supervising physician and Delegation of Services Agreement, or practice agreement, in violation
6 of Code sections 3501, 3502, 3502.1, and 3502.3; and (2) altering the patient's medical records in
7 violation of Code section 2262. The circumstances are set forth in paragraphs 14 through 19
8 above, which are incorporated here by reference as if fully set forth.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Dishonesty)**

11 20. Respondent's license is further subject to disciplinary action under Code section
12 2234, subdivision (e), in that he committed acts involving dishonesty by intentionally altering the
13 patient's medical records in violation of Code section 2262. The circumstances are set forth in
14 paragraphs 14 through 19 above, which are incorporated here by reference as if fully set forth.

15 **PRAYER**

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Physician Assistant Board issue a decision:

18 1. Revoking or suspending Physician Assistant License Number PA 21688, issued to
19 Griffin Benjamin Bailey, P.A.;

20 2. Ordering Griffin Benjamin Bailey, P.A. to pay the Physician Assistant Board the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 3. Ordering Griffin Benjamin Bailey, P.A., if placed on probation, to pay the Physician
24 Assistant Board the costs of probation monitoring; and,

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4. Taking such other and further action as deemed necessary and proper.

DATED: January 25, 2021

Rozana Khan

ROZANA KHAN

Executive Officer

Physician Assistant Board

Department of Consumer Affairs

State of California

Complainant

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